

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/738,626	NAKAGAWA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cheyne D Ly	1631	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____      |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)     |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____    | 6) <input checked="" type="checkbox"/> Other: <i>Non-Response Office Action</i> |



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: ASSISTANT COMMISSIONER FOR PATENTS

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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11

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

The art unit designated for this application has changed. Applicants(s) are hereby informed that future correspondence should be directed to Art Unit 1631.

The reply filed on August 12, 2002 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The sequence election requirement in the Office Action mailed May 10, 2002 was not properly followed as indicated on page 2 (for Group V) and further explained on page 6. Applicants are reminded that they must elect one sequence.

Applicant is hereby notified that the required timing for the correction of drawings has changed. See the last 6 lines on the sheet which is attached entitled "Attachment for PTO-948 (Rev. 03/01 or earlier)". It is noted that a PTO Form 948 is mailed herewith. Due to the above notification Applicant is required to submit drawing corrections within the time period set for responding to this Office action. Failure to respond to this requirement may result in abandonment of the instant application or a notice of a failure to fully respond to this Office action.

See 37 CFR 1.111. Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (see 37 CFR § 1.6(d)). The CM1 Fax Center number is either (703) 308-4242 or (703) 305-3014.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (703) 308-3880. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (703) 308-4028.

Any inquiry of a general nature or relating to the status of this application should be directed to Patent Analyst, Tina Plunkett, whose telephone number is (703) 305-3524 or to the Technical Center receptionist whose telephone number is (703) 308-0196.

C. Dune Ly  
10/29/02

Dune,

10/30/02

Comments on the 90C document for 09/738,626:

After looking closely at the elected Group V claim wording, it looks to me that the claims require the target sequence comparison to a database that "comprises" SEQ ID NOS: 1-3501 or 3502-7001 and that a single SEQ ID NO: election is inappropriate. With this in mind please proceed to a FAOMs. Also, the new drawing requirement was not sent with the restriction, mailed 5/10/02, and therefore cannot be a non-responsive element all by itself. It could have been added if the above election requirement made sense. Please apply the new drawing requirement as part of the FAOMs.

Reviewingly,



Ardin

P.S. A 90C communication does not need a 326 form, but does need a count sheet with it.

Dune,

11/15/02

Comments on the FAOMs for 09/738,626:

1. In the file section entitled "INDEX OF CLAIMS" you indicated that claims 1-68 are withdrawn as being non-elected. Why? These claims 1-68 have been canceled. Please note that non-elected status carries with it the concept that the claims still are pending, albeit non-elected. Note that canceled claims are gone, kaput, exterminated, non-retrievable as claims, of historical note only. Canceled claims are no longer pending, they are canceled, eradicated, annihilated. Please do not indicate such canceled claims as non-elected in the future.

2. Since only claims 1-68 have been canceled, claims 69-110 still are pending. Please correct the 326 form.

✓ 3. In the response to applicants' election, please add an acknowledgment that the sequence election requirement has been withdrawn.

✓ 4. Please suggest replacement pages for item # 7 in your action on page 3.

5. I have indicated a question in green ink on page 3 of one of your actions.

Reviewingly,

Ardin